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ONE HUNDRED SIXTH CONGRESS

# Congress of the United States

## House of Representatives

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October 4, 2000

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### BY FACSIMILE

The Honorable Mark J. Mazur  
Acting Administrator  
Energy Information Administration  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Dear Mr. Mazur:

I understand that you may postpone, until after the November elections, release of the completed portion of the Energy Information Administration's (EIA) analysis of "multi-pollutant" strategies to reduce air emissions from electric power plants. I believe such a decision would ill-serve the public's interest in informed discussion of critical energy and environmental issues. Deliberate withholding from the public of a completed analysis could also raise questions about EIA's independence from external political pressure.

As you know, on June 29, 2000, I requested that EIA analyze the potential costs of various "multi-pollutant" strategies by October 1st. On August 1st, your predecessor, EIA Acting Administrator L.A. Pettis, wrote to me explaining that EIA "will only be able to provide you with a portion of the results by your requested date, October 1, 2000." Mr. Pettis went on to state: "Based on your staff's priorities, we will complete scenarios 1a, 1c, 2a and 3c for three of the multi-pollutants (sulfur dioxide, nitrogen oxide, and carbon dioxide) providing both their combined and individual impacts by October 1, 2000." He further explained: "Because mercury data are not readily available, we will need more time to analyze the implications of the cap on mercury. We will provide the mercury analysis and the renewable portfolio standards cases by December 15, 2000." As you can imagine, I was stunned to hear, after the October 1st deadline, that you may decide to repudiate Mr. Pettis' written assurances.

Concern has been raised that analyzing "multi-pollutant" strategies without factoring in the costs of the Environmental Protection Agency's (EPA's) New Source Review (NSR) litigation against seven major utilities and the Tennessee Valley Authority, would present an inflated picture of the cost of "multi-pollutant" emissions caps. This criticism assumes that a particular outcome of the NSR litigation is already *current* policy. In fact, we do not know how

courts will decide the issues of the NSR litigation. In addition, the leading Congressional "multi-pollutant" strategy bills pre-date the November 3, 1999 EPA-Justice Department NSR litigation. Those bills do not reference and, thus, do not presuppose, any particular outcome of the NSR litigation. In short, "multi-pollutant" strategies have a life and substance of their own. The public deserves to know as soon as possible what such strategies, considered on their own terms, might cost.

I concur that EIA should analyse the costs of the NSR litigation. That is why, on September 25th, I requested that EIA additionally undertake an analysis of those costs. And, since the NSR litigation and "multi-pollutant" strategies could impose overlapping and, thus, offsetting requirements on the electric power sector, I encourage and expect EIA to "net out" the potential costs of the NSR litigation from those of "multi-pollutant" strategies. However, before EIA can do so, it must first analyze the costs of each initiative on its own terms. As I understand, the component of the "multi-pollutant" analysis due by October 1st is completed.

Finally, I want to emphasize that EIA exists to provide quality data and analysis to inform public discussion of, and debate on, energy policy issues. At no time are public discussion and debate more important than in an election year, and at no time is EIA's contribution to public discussion and debate more valuable than in an election year. It would ill-suit EIA's deserved reputation for candor and independence to withhold a completed analysis from the public just weeks before a critical election in which the issues EIA has analyzed are in play.

Therefore, I respectfully request that you honor your predecessor's written assurances. By no later than Wednesday, October 11, 2000, please provide to me the sulfur dioxide, nitrogen oxide, and carbon dioxide portion of the "multi-pollutant" strategies analysis. If EIA refuses to release the analysis, please send me a legal justification for this refusal by the same deadline.

Sincerely,



David M. McIntosh

Chairman

Subcommittee on National Economic Growth,  
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton  
The Honorable Dennis Kucinich  
The Honorable Henry Waxman